

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TOPSTEPTRADER, LLC
Plaintiff,

v.

ONEUP TRADER, LLC, and
SATTAM ALSABAH,
Defendants.

Case Number: 17-cv-4412

Hon. Judge Harry D. Leinenweber

Plaintiff TopstepTrader respectfully requests leave to file a sur-reply or for additional briefing to correct two points in Defendant Alsabah's¹ Reply brief because²:

First, Defendant Alsabah states that *Ariel Investments* controls and (implicitly) overruled prior case law, but the *Ariel* case is not on point to this case. The defendant in *Ariel* had no contacts with Chicago, did not *intend* to infringe, and did *not* go on the plaintiff's website. Whereas Alsabah intentionally went on Topstep's website, created an account on its site, accessed and copied its content, discussed Topstep in online forums, had a business partner in Chicago, and had a business in Chicago that merged with OneUp. *See, e.g.*, Dkts. 72, Exs. A-G.

Second, Alsabah argues that this case is similar to *Greeley*, but ignores that unlike the plaintiff in *Greeley* who had all versions, Defendant changed its website, so Topstep does *not* have OneUp's earlier website versions to compare for additional copying. But even the versions Topstep found later online contain exact copies of portions of its site and include words coined by Topstep, which would not have occurred *but for* direct copying of Topstep's site.

¹ Referred to as "OneUp" in the Second Amended Complaint "collectively" with Defendant OneUp Trader, LLC.

² TopstepTrader ("Topstep") otherwise stands on its Response brief at Dkt. 72.

Dated: March 1, 2018

Respectfully submitted,

TOPSTEPTRADER, LLC,

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CERTIFICATE OF SERVICE

The undersigned certifies that, on March 1, 2018, he caused this document to be served upon the following counsel of record through electronic mail delivery.

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By: /s/ Adam Wolek